

## **IC 16-27-1**

### **Chapter 1. Licensure of Home Health Agencies**

#### **IC 16-27-1-0.5**

##### **Attendant care services defined**

Sec. 0.5. As used in this chapter, "attendant care services" means those services that could be performed by an impaired individual for whom the services are provided if the individual were not impaired, that enable the impaired individual to live in the individual's home and community, rather than in an institution, and to carry out functions of daily living, self-care, and mobility. The term includes the following:

- (1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.
- (2) Assistance with routine bodily functions, including:
  - (A) bathing and personal hygiene;
  - (B) using the toilet;
  - (C) dressing and grooming; and
  - (D) feeding, including preparation and cleanup.
- (3) The provision of assistance:
  - (A) through providing reminders or cues to take medication, the opening of pre-set medication containers, and providing assistance in the handling or ingesting of non-controlled substance medications, including eye drops, herbs, supplements, and over-the-counter medications; and
  - (B) to an individual who is unable to accomplish the task due to an impairment and who is:
    - (i) competent and has directed the services; or
    - (ii) incompetent and has the services directed by a competent individual who may consent to health care for the impaired individual.

*As added by P.L.255-2001, SEC.13.*

#### **IC 16-27-1-1**

##### **Health care professional defined**

Sec. 1. As used in this chapter, "health care professional" means any of the following:

- (1) A licensed physician.
- (2) A licensed dentist.
- (3) A licensed chiropractor.
- (4) A licensed podiatrist.
- (5) A licensed optometrist.
- (6) A nurse licensed under IC 25-23-1.
- (7) A physical therapist licensed under IC 25-27 or a physical therapy assistant certified under IC 25-27.
- (8) A speech language pathologist or an audiologist licensed under IC 25-35.6-3.
- (9) A speech language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).
- (10) An:
  - (A) occupational therapist; or
  - (B) occupational therapist assistant;

certified under IC 25-23.5.

(11) A social worker licensed under IC 25-23.6 or a social work assistant.

(12) A pharmacist licensed under IC 25-26-13.

*As added by P.L.2-1993, SEC.10. Amended by P.L.146-1996, SEC.1; P.L.147-1997, SEC.1.*

#### **IC 16-27-1-2**

##### **Home health agency defined**

Sec. 2. (a) As used in this chapter, "home health agency" means a person that provides or offers to provide only a home health service for compensation.

(b) The term does not include the following:

(1) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.

(2) A local health department as described in IC 16-20 or IC 16-22-8.

(3) A person that:

(A) is approved by the division of disability, aging, and rehabilitative services to provide supported living services or supported living supports to individuals with developmental disabilities;

(B) is subject to rules adopted under IC 12-11-2.1; and

(C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

*As added by P.L.2-1993, SEC.10. Amended by P.L.37-2003, SEC.1.*

#### **IC 16-27-1-3 Repealed**

*(Repealed by P.L.110-1999, SEC.6.)*

#### **IC 16-27-1-4**

##### **Home health aide services defined**

Sec. 4. As used in this chapter, "home health aide services" means only home health services that may be performed by a home health aide.

*As added by P.L.2-1993, SEC.10.*

#### **IC 16-27-1-5**

##### **Home health services defined**

Sec. 5. (a) As used in this chapter, "home health services" means services that are:

(1) provided to a patient by:

(A) a home health agency; or

(B) another person under an arrangement with a home health agency;

in the temporary or permanent residence of the patient; and

(2) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist.

(b) The term includes the following:

(1) Nursing treatment and procedures.

- (2) Physical therapy.
- (3) Occupational therapy.
- (4) Speech therapy.
- (5) Medical social services.
- (6) Home health aide services.
- (7) Other therapeutic services.
- (c) The term does not apply to the following:
  - (1) Services provided by a physician licensed under IC 25-22.5.
  - (2) Incidental services provided by a licensed health facility to patients of the licensed health facility.
  - (3) Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.
  - (4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.
  - (5) Services that are allowed to be performed by an attendant under IC 16-27-1-10.
  - (6) Authorized services provided by a personal services attendant under IC 12-10-17.

*As added by P.L.2-1993, SEC.10. Amended by P.L.146-1996, SEC.2; P.L.255-2001, SEC.14.*

#### **IC 16-27-1-6**

##### **Patient defined**

Sec. 6. As used in this chapter, "patient" means an individual who has been accepted for care by a home health agency.

*As added by P.L.2-1993, SEC.10.*

#### **IC 16-27-1-7**

##### **Rules**

Sec. 7. The state department shall adopt rules under IC 4-22-2 to do the following:

- (1) Protect the health, safety, and welfare of patients.
- (2) Govern the qualifications of applicants for licenses.
- (3) Govern the operating policies, supervision, and maintenance of service records of home health agencies.
- (4) Govern the procedure for issuing, renewing, denying, or revoking an annual license to a home health agency, including the following:
  - (A) The form and content of the license.
  - (B) The collection of an annual license fee of not more than two hundred dollars (\$200) that the state department may waive.
- (5) Exempt persons who do not provide home health services under this chapter.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-8****Licensing**

Sec. 8. (a) To operate a home health agency, a person must first obtain a license from the state health commissioner, unless the person is exempted by a rule adopted by the state department.

(b) The state health commissioner may also permit persons who are not required to be licensed under this chapter to be voluntarily licensed if:

- (1) the services provided by the person are substantially similar to those provided by licensed home health agencies under this chapter; and
- (2) licensure will assist the person in obtaining:
  - (A) payment for services; or
  - (B) certification.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-9****Operation of unlicensed home health agencies**

Sec. 9. (a) The state department shall investigate a report of an unlicensed home health agency operation and report its findings to the attorney general.

(b) The attorney general may do the following:

- (1) Seek an injunction in the circuit or superior court of the county in which the unlicensed home health agency is located.
- (2) Prosecute violations under section 15 of this chapter.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-10****Services not prohibited**

Sec. 10. This chapter does not prohibit the provision of:

- (1) homemaker services, including shopping, laundry, cleaning, and seasonal chores;
- (2) companion type services, including transportation, letter writing, mail reading, and escort services;
- (3) assistance with cognitive tasks, including managing finances, planning activities, and making decisions;
- (4) attendant care services; or
- (5) any other services for which an individual license, certification, registration, or permit is not required under state law.

*As added by P.L.2-1993, SEC.10. Amended by P.L.256-1999, SEC.18; P.L.255-2001, SEC.15.*

**IC 16-27-1-11****Home health agency operated by licensed hospital or health facility**

Sec. 11. For purposes of this chapter, a facility licensed under IC 16-21-2 or IC 16-28-2 that operates a home health agency is subject to the rules adopted under this chapter for the facility's home health agency. However, the facility may only be licensed under IC 16-21-2 or IC 16-28-2, respectively.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-12****Prohibited acts; penalties**

Sec. 12. (a) The state health commissioner may take one (1) or more of the following actions on any ground listed in subsection (b):

- (1) Issue a letter of correction.
- (2) Issue a probationary license.
- (3) Conduct a resurvey.
- (4) Deny renewal of a license.
- (5) Revoke a license.
- (6) Impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000).

(b) The state health commissioner may take action under subsection (a) on any of the following grounds:

- (1) Violation of any of the provisions of this chapter or rules adopted under this chapter.
- (2) Permitting, aiding, or abetting the commission of an illegal act in a home health agency.
- (3) Conduct or practice found by the state department to be detrimental to the welfare of the patients of the home health care agency.

(c) IC 4-21.5 applies to an action under this section.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-13****Review**

Sec. 13. A licensee or an applicant for a license aggrieved by an action under this chapter may request review under IC 4-21.5.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-14****Appeals panel**

Sec. 14. (a) The executive board shall appoint an appeals panel consisting of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana who is not an employee of the state department.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.

*As added by P.L.2-1993, SEC.10.*

**IC 16-27-1-15****Operation or advertisement of unlicensed home health agency; violation; classification**

Sec. 15. A person who:

- (1) operates a home health agency; or
- (2) advertises the operation of a home health agency;

that is not licensed commits a Class A misdemeanor.  
*As added by P.L.2-1993, SEC.10.*

#### **IC 16-27-1-16**

##### **Acceptance of written orders for home health services**

Sec. 16. (a) A licensed home health agency may accept written orders for home health services from a physician, a dentist, a chiropractor, a podiatrist, or an optometrist licensed in Indiana or any other state. If the physician, dentist, chiropractor, podiatrist, or optometrist is licensed in a state other than Indiana, the home health agency shall take reasonable immediate steps to determine that:

- (1) the order complies with the laws of the state where the order originated; and
- (2) the individual who issued the order examined the patient and is licensed to practice in that state.

(b) All orders issued by a physician, a dentist, a chiropractor, a podiatrist, or an optometrist for home health services:

- (1) must meet the same requirements whether the order originates in Indiana or another state; and
- (2) from another state may not exceed the authority allowed under orders from the same profession in Indiana under IC 25.

*As added by P.L.146-1996, SEC.3.*

#### **IC 16-27-1-17**

##### **Third party billing notice**

Sec. 17. A home health agency that provides to a patient notice concerning a third party billing for a home health service provided to the patient shall ensure that the notice:

- (1) conspicuously states that the notice is not a bill;
- (2) does not include a tear-off portion; and
- (3) is not accompanied by a return mailing envelope.

*As added by P.L.178-2003, SEC.6.*